

1 SENATE BILL 457

2 **46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO PUBLIC MONEY; ALLOWING THE STATE BOARD OF FINANCE
12 TO REQUIRE THAT FINANCIAL INSTITUTIONS THAT RECEIVE STATE
13 DEPOSITS EARMARK A PERCENTAGE FOR ECONOMIC DEVELOPMENT IN THE
14 COMMUNITY.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 Section 1. Section 6-10-10 NMSA 1978 (being Laws 1933,
18 Chapter 175, Section 4, as amended) is amended to read:

19 "6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

20 A. Upon the certification or designation of a bank,
21 savings and loan association or credit union whose deposits are
22 insured by an agency of the United States to receive public
23 money on deposit, the state treasurer and county or municipal
24 treasurers who have on hand any public money by virtue of their
25 offices shall make deposit of that money in banks and savings

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1 and loan associations, and may make deposit of that money in
2 credit unions whose deposits are insured by an agency of the
3 United States, designated by the authority authorized by law to
4 so designate to receive the deposits of all money thereafter
5 received or collected by the treasurers.

6 B. County or municipal treasurers may deposit money
7 in one or more accounts with any such bank, savings and loan
8 association or credit union located in their respective
9 counties, subject to limitation on credit union accounts.

10 C. The state treasurer may deposit money in one or
11 more accounts with any such bank, savings and loan association
12 or credit union, subject to the limitation on credit union
13 accounts. The state board of finance may require a bank,
14 savings and loan association or credit union that receives
15 state deposits to earmark a certain percentage of those
16 deposits for use in stimulating economic development in the New
17 Mexico community in which the bank, savings and loan
18 association or credit union has its main office or any branch.
19 The board shall define by rule what constitutes economic
20 development for the purposes of this subsection.

21 D. Duplicate receipts or deposit slips shall be
22 taken for each deposit made pursuant to Subsection A, B or C of
23 this section. When deposits are made by the state treasurer,
24 one copy of the receipt or deposit slip shall be retained by
25 the state treasurer and the other copy shall be filed monthly

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1 on the first day of each month with the financial control
2 division of the department of finance and administration. When
3 deposits are made by the treasurer or any other authorized
4 person making the deposits for a board of finance of a public
5 or educational institution, one copy of the receipt or deposit
6 slip shall be retained by the treasurer or authorized person
7 making the deposit and the other copy shall be filed monthly on
8 the first day of each month with that board of finance. When
9 deposits are made by a county or municipal treasurer, one of
10 the duplicate receipts or deposit slips shall be retained by
11 the treasurer making the deposit and the other copy shall be
12 filed monthly on the first day of each month with the secretary
13 of the board of finance of the county or municipality for which
14 that treasurer is acting.

15 E. "Deposit", as used in this section, means either
16 investment or deposit and includes share, share certificate and
17 share draft.

18 F. County or municipal treasurers, with the advice
19 and consent of their respective boards of finance charged with
20 the supervision and control of the respective funds, have the
21 power to invest all sinking funds or money remaining unexpended
22 from the proceeds of any issue of bonds or other negotiable
23 securities of any county, municipality or school district that
24 is entrusted to their care and custody and all money not
25 immediately necessary for the public uses of the counties,

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1 municipalities or school districts not invested or deposited in
2 banks, savings and loan associations or credit unions in:

3 (1) bonds or negotiable securities of the
4 United States, the state or a county, municipality or school
5 district that has a taxable valuation of real property for the
6 last preceding year of at least one million dollars
7 (\$1,000,000) and has not defaulted in the payment of any
8 interest or sinking fund obligation or failed to meet any bonds
9 at maturity at any time within five years last preceding; or

10 (2) securities that are issued by the United
11 States government or by its agencies or instrumentalities and
12 that are either direct obligations of the United States, the
13 federal home loan mortgage association, the federal national
14 mortgage association, the federal farm credit bank or the
15 student loan marketing association or are backed by the full
16 faith and credit of the United States government.

17 G. The treasurer of a class A county or the
18 treasurer of a municipality having a population of more than
19 sixty-five thousand according to the most recent federal
20 decennial census and located within a class A county, with the
21 advice and consent of the boards of finance charged with the
22 supervision and control of the funds, has the power to invest
23 all sinking funds or money remaining unexpended from the
24 proceeds of any issue of bonds or other negotiable securities
25 of the county or municipality that is entrusted to his care and

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1 custody and all money not immediately necessary for the public
2 uses of the county or municipality not invested or deposited in
3 banks, savings and loan associations or credit unions in:

4 (1) shares of a diversified investment company
5 registered pursuant to the federal Investment Company Act of
6 1940 that invests in fixed income securities or debt
7 instruments that are listed in a nationally recognized, broad-
8 market, fixed-income-securities market index; provided that the
9 investment company or manager has total assets under management
10 of at least one hundred million dollars (\$100,000,000) and
11 provided that the board of finance of the county or
12 municipality may allow reasonable administrative and investment
13 expenses to be paid directly from the income or assets of these
14 investments;

15 (2) individual, common or collective trust
16 funds of banks or trust companies that invest in fixed-income
17 securities or debt instruments that are listed in a nationally
18 recognized, broad-market, fixed-income-securities market index;
19 provided that the investment company or manager has total
20 assets under management of at least one hundred million dollars
21 (\$100,000,000) and provided that the board of finance of the
22 county or municipality may allow reasonable administrative and
23 investment expenses to be paid directly from the income or
24 assets of these investments; or

25 (3) shares of pooled investment funds managed

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1 by the state investment officer, as provided in Subsection G of
2 Section 6-8-7 NMSA 1978; provided that the board of finance of
3 the county or municipality may allow reasonable administrative
4 and investment expenses to be paid directly from the income or
5 assets of these investments.

6 H. A local public body, with the advice and consent
7 of the body charged with the supervision and control of the
8 local public body's respective funds, has the power to invest
9 all sinking funds or money remaining unexpended from the
10 proceeds of any issue of bonds or other negotiable securities
11 of the investor that is entrusted to the local public body's
12 care and custody and all money not immediately necessary for
13 the public uses of the investor and not otherwise invested or
14 deposited in banks, savings and loan associations or credit
15 unions in contracts with banks, savings and loan associations
16 or credit unions for the present purchase and resale at a
17 specified time in the future of specific securities at
18 specified prices at a price differential representing the
19 interest income to be earned by the investor. The contract
20 shall be fully secured by obligations of the United States or
21 other securities backed by the United States having a market
22 value of at least one hundred two percent of the contract. The
23 collateral required for investment in the contracts provided
24 for in this subsection shall be shown on the books of the
25 financial institution as being the property of the investor and

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1 the designation shall be contemporaneous with the investment.
2 As used in this subsection, "local public body" includes all
3 political subdivisions of the state and agencies,
4 instrumentalities and institutions thereof; provided that home
5 rule municipalities that prior to July 1, 1994 had enacted
6 ordinances authorizing the investment of repurchase agreements
7 may continue investment in repurchase agreements pursuant to
8 those ordinances.

9 I. The state treasurer, with the advice and consent
10 of the state board of finance, has the power to invest money
11 held in demand deposits and not immediately needed for the
12 operation of state government and money held in the short-term
13 investment fund, except as provided in Section 6-10-10.1 NMSA
14 1978. The investments shall be made only in securities that
15 are issued by the United States government or by its
16 departments or agencies and are either direct obligations of
17 the United States or are backed by the full faith and credit of
18 the United States government or agencies sponsored by the
19 United States government.

20 J. The state treasurer, with the advice and consent
21 of the state board of finance, may also invest in contracts for
22 the present purchase and resale at a specified time in the
23 future, not to exceed one year or, in the case of bond
24 proceeds, not to exceed three years, of specific securities at
25 specified prices at a price differential representing the

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1 interest income to be earned by the state. No such contract
2 shall be invested in unless the contract is fully secured by
3 obligations of the United States or other securities backed by
4 the United States having a market value of at least one hundred
5 two percent of the amount of the contract.

6 K. The state treasurer, with the advice and consent
7 of the state board of finance, may also invest in contracts for
8 the temporary exchange of state-owned securities for the use of
9 broker-dealers, banks or other recognized institutional
10 investors in securities, for periods not to exceed one year for
11 a specified fee rate. No such contract shall be invested in
12 unless the contract is fully secured by exchange of an
13 irrevocable letter of credit running to the state, cash or
14 equivalent collateral of at least one hundred two percent of
15 the market value of the securities plus accrued interest
16 temporarily exchanged.

17 L. The collateral required for either of the forms
18 of investment in Subsection J or K of this section shall be
19 delivered to the fiscal agent of New Mexico or its designee
20 contemporaneously with the transfer of funds or delivery of the
21 securities at the earliest time industry practice permits, but
22 in all cases, settlement shall be on a same-day basis.

23 M. Neither of the contracts in Subsection J or K of
24 this section shall be invested in unless the contracting bank,
25 brokerage firm or recognized institutional investor has a net

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1 worth in excess of five hundred million dollars (\$500,000,000).

2 N. The state treasurer, with the advice and consent
3 of the state board of finance, may also invest in any of the
4 following investments in an amount not to exceed forty percent
5 of any fund that the state treasurer invests:

6 (1) commercial paper rated "prime" quality by
7 a national rating service, issued by corporations organized and
8 operating within the United States;

9 (2) medium-term notes and corporate notes with
10 a maturity not exceeding five years that are rated A or its
11 equivalent or better by a nationally recognized rating service
12 and that are issued by a corporation organized and operating in
13 the United States; or

14 (3) an asset-backed obligation with a maturity
15 not exceeding five years that is rated AAA or its equivalent by
16 a nationally recognized rating service.

17 O. The state treasurer, with the advice and consent
18 of the state board of finance, may also invest in:

19 (1) shares of a diversified investment company
20 registered pursuant to the federal Investment Company Act of
21 1940 that invests in United States fixed income securities or
22 debt instruments authorized pursuant to Subsections I, J and N
23 of this section, provided that the investment company has total
24 assets under management of at least one billion dollars
25 (\$1,000,000,000) and the investments made by the state

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1 treasurer pursuant to this paragraph are less than five percent
2 of the assets of the investment company; or

3 (2) individual, common or collective trust
4 funds of banks or trust companies that invest in United States
5 fixed income securities or debt instruments authorized pursuant
6 to Subsections I, J and N of this section, provided that the
7 investment manager has assets under management of at least one
8 billion dollars (\$1,000,000,000) and the investments made by
9 the state treasurer pursuant to this paragraph are less than
10 five percent of the assets of the individual, common or
11 collective trust fund.

12 P. No public funds to be invested in negotiable
13 securities or loans to financial institutions fully secured by
14 negotiable securities at current market value shall be paid out
15 unless there is a contemporaneous transfer of the securities at
16 the earliest time industry practice permits, but in all cases,
17 settlement shall be on a same-day basis either by physical
18 delivery or, in the case of uncertificated securities, by
19 appropriate book entry on the books of the issuer, to the
20 purchaser or to a reputable third-party safekeeping financial
21 institution acting as agent or trustee for the purchaser, which
22 agent or trustee shall furnish timely confirmation to the
23 purchaser."

24 Section 2. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2004.

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